HON'BLE SRI JUSTICE V. ESWARAIAH

W.P.NO. 11059 OF 2007

Between:

Sheik Mastan Vali

… Petitioner

and

Inspector of Police, Range-2, ACB,
Rajahmundry and another

… Respondents

HON'BLE SRI JUSTICE V. ESWARAIAH

W.P.NO. 11059 OF 2007

ORAL ORDER:

The petitioner questions the registration of the FIR under Section 13 (2) r/w 13 (1) (e) of the Prevention of Corruption Act, 1988 (for short 'the Act') by the 1st respondent, alleging that the petitioner while working under the 2nd respondent-Commissioner of Police, Vijayawada, as A.C.P. Division-I, Vijayawada during the year 2004, certain prejudice has been developed by the 2nd respondent against the petitioner and the 2nd respondent in his capacity as Joint Director, ACB, Hyderabad, initiated proceedings in Rc.No.21/RCA-RJY/2007 dated 2.2.2007, authorizing the 1st respondent to register a case under Sections 15 (2) r/w 13 (1) (c) of the Act, and accordingly the 1st respondent registered a case under Section 13 (2) r/w 13 (1) (e) of the Act.

It is the case of the petitioner that the permission granted by the 2nd respondent to register a case under the provisions of the Act is vitiated by ***mala fides*** and, therefore, the registration of the FIR is liable to be declared as illegal and arbitrary. It is further stated that the

1st respondent has no jurisdiction over the petitioner as the 1st respondent who is working as Inspector of Police, ACB Range-2, Rajahmundry, and whereas the petitioner was working as DSP-Assistant Commandant, V Battalion, APSP, Vizianagaram.

Heard the counsel on both sides.

A perusal of the FIR goes to show that the 1st respondent is the Inspector of Police, ACB, Rajahmundry. If he is not having territorial jurisdiction over Vizianagaram District, the petitioner as well can take the objection before the ACB Court with regard to the power of the 1st respondent in registering a case against the officers working in Vizianagaram District. Insofar as the allegations made against the 2nd respondent are concerned, even assuming that the said contentions of the learned counsel appearing for the petitioner are true and correct, but they will not absolve the liability of the petitioner, if really he has acquired assets disproportionate to his known sources of income. The contents of the FIR goes to show that the petitioner acquired as many as 11 immovable properties worth Rs.52,82,600/- and the income of the petitioner, after excluding the expenditure and his actual savings, is only Rs.4,50,000/- and his disproportionate assets are worth Rs.49,32,600/-. Therefore, unless the petitioner satisfactorily accounts of his pecuniary sources for acquiring the said properties, it cannot be said that the petitioner has not committed the offence of criminal misconduct, as contemplated under Section 13 (1) (e) of the Act.

If the petitioner fails to submit the satisfactory account of his

pecuniary sources as to whether the said assets are disproportionate to his known sources of income or not, it cannot be said that the petitioner has not committed any criminal misconduct. If there is any criminal misconduct, the petitioner is liable to be prosecuted under Section 13 and is liable to be punished as contemplated under Section 13 (2) of the Act.

Therefore, I am of the opinion that unless all the documents which are relied on by the petitioner are received in evidence, this court cannot go into the legality, validity or otherwise of the allegations or documents. In view of the aforesaid facts of the case, I do not see any merits to issue a writ of Mandamus as prayed for.

The writ petition is accordingly dismissed. No costs.

V. ESWARAIAH, J

DATE: 17.7.2007

CVM